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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,237	12/19/2000	Takashi Usukura	PNDF-00146	4460

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EXAMINER

NGUYEN, VAN KIM T

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/739,237

Applicant(s)

USUKURA, TAKASHI

Examiner

Van Kim T. Nguyen

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-16 is/are allowed.
- 6) ☒ Claim(s) 1 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This Office Action is responsive to communications filed on May 25, 2004.

#### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

Claim 1 recites the limitation "the order of a packet undergoing convergence" in line 5-6, and "the order of a packet not undergoing convergence" in line 7. There is insufficient antecedent basis for these limitations in the claim.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Maeno (US 4,942,569).

As shown in Figures 1-11, Maeno discloses a method of controlling priority in a single output queue (1012), comprising: improving an output priority of a packet not undergoing convergence (packet having immediateness priority), by exchanging an order of a packet undergoing convergence (packet having necessity priority or low priority) with an order of a packet not undergoing convergence, and setting an operation range (the queue) for exchanging the order of the packet in a predetermined range; wherein the order exchange of the packet is carried out within a packet sending time interval (col. 4: line 11 – col. 5: line 28; and col. 6: line 1 – col. 8: line 60).

Art Unit: 2661

***Allowable Subject Matter***

Claims 7-16 are allowed.

The following is an examiner's statement of reasons for allowance:

Claims are considered allowable when reading the claims none of the references of record alone or in combination, in light of the specification, disclose or suggest the combination limitations specified in the independent claims including improving the priority of a packet in a queue with a single output by indicating that packets addressed to one of the receiving units are to be released from the queue with a lower priority than other packets not addressed to the one receiving unit; and exchanging two of the packets for each other in the queue when a first of the two packets is addressed to the one receiving unit and a second of the two packets subsequent to the first packet is not addressed to the one receiving unit.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Arguments***

Applicant's arguments filed May 25, 2004 have been fully considered. Responses are as follows.

While there was no patentable subject matter intended in the previous Office Action, the examiner acknowledges the discrepancy as identified by Applicant presented, and therefore, ***will not*** make this communication the Final Office Action.

Art Unit: 2661

Applicant's arguments, with respect to claims 1, 2, and 4, see *Remarks, page 8, line 23 – page 9: line 3*, have been fully considered and are persuasive. The rejection of claim 1 under §112, first paragraph, and claims 2 and 4 under §112, second paragraph, are avoided with the new and amended claims; thus the rejection has been withdrawn.

In response to applicant's argument regarding claim 1 as being anticipated by Maeno, that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., undergoing convergence because receiving unit 33 has sent out a convergence notice signal, see *Remarks, page 10, lines 13-14*) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 703-305-7692. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms can be reached on 703-305-4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

vkn



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